

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Midwest Independent Transmission  
System Operator, Inc.

Docket No. ER06-1536-000

ORDER CONDITIONALLY ACCEPTING SMALL GENERATOR  
INTERCONNECTION AGREEMENT AND REJECTING CERTAIN REQUESTED  
NON-CONFORMING PROVISIONS

(Issued November 24, 2006)

**I. Introduction**

1. Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed an unexecuted small generator interconnection agreement (Interconnection Agreement) among Cisco Wind Energy LLC (Cisco) as interconnection customer, itself as transmission provider, and Great River Energy (Great River) as transmission owner. Midwest ISO requests certain non-conforming provisions, which are incorporated into the Interconnection Agreement, including some of the pending proposed variations from the *pro forma* Small Generator Interconnection Procedures (SGIP) and Small Generator Interconnection Agreement (SGIA)<sup>1</sup> that Midwest ISO filed in Docket No. ER06-192-000.

2. In this order, we accept the Interconnection Agreement, subject to: (1) the outcome of Midwest ISO's Order No. 2006 compliance filing pending before the

---

<sup>1</sup> The Commission adopted the *pro forma* SGIA and SGIP in Order No. 2006. *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180 (2005), *order on reh'g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *order on clarification*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006), *appeal pending*, *Consolidated Edison Co. of New York, Inc., et al. v. FERC*, Nos. 06-1018, 06-1031, 06-1032, 06-1036 (D.C. Cir.).

Commission in Docket No. ER06-192-000, as amended,<sup>2</sup> (2) the outcome of the proceeding in Docket No. ER06-18-000,<sup>3</sup> and (3) a compliance filing pending before the Commission in Docket No. ER06-1315-001.<sup>4</sup> As discussed below, we will conditionally accept Midwest ISO's requested non-conforming provisions relating to the ownership characteristics of this small generator, crediting for Network Upgrades, conditional Energy Resource Interconnection Service (ERIS) and the nature of a three-party agreement.

## II. Background

3. Order No. 2006 requires all public utilities to adopt standard rules for interconnecting new sources of electricity no larger than 20 megawatts (small generators).<sup>5</sup> Order No. 2006 standardized the terms and conditions for small generator interconnection service, just as Order No. 2003 standardized the terms and conditions for large generator interconnection service. The Commission's *pro forma* SGIP and SGIA are designed to reduce interconnection time and costs for interconnection customers and transmission providers, preserve reliability, increase energy supply, lower wholesale prices for customers by increasing the number and types of new generation that will compete in the wholesale electricity market, facilitate development of non-polluting alternative energy sources, and mitigate undue discrimination.<sup>6</sup>

---

<sup>2</sup> The Interconnection Agreement is based on the *pro forma* Small Generator Interconnection Agreement contained in Attachment R of Midwest ISO's Open Access Transmission and Energy Markets Tariff (TEMT), currently pending in Docket No. ER06-192-000.

<sup>3</sup> See *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,106 (2006) (February 3 Order), *reh'g pending*. That proceeding involves the question of cost sharing between interconnection customers and transmission owners of Network Upgrades that are identified through an interconnection request.

<sup>4</sup> See *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,306 (2006). That proceeding involves Midwest ISO's provision of conditional Energy Resource Interconnection Service.

<sup>5</sup> For purposes of this order, public utilities are entities that own, control, or operate facilities used for transmitting electric energy in interstate commerce, as defined by the Federal Power Act (FPA), 16 U.S.C. § 824(e) (2000).

<sup>6</sup> Order No. 2006 at P 1.

4. As required by Order No. 2006, Midwest ISO filed a proposed *pro forma* SGIP and SGIA to be included in Attachment R of Midwest ISO's TEMT. The Commission then issued Order No. 2006-A, revising the Commission's *pro forma* SGIP and SGIA. Midwest ISO submitted a letter to the Commission stating that it would address any further revisions consistent with the Commission's determination in its pending Order No. 2006 compliance filing. The Commission issued Order No. 2006-B, further revising its *pro forma* SGIP and SGIA. In that order, the Commission directed independent transmission providers to amend their pending filings in cases where the Commission had not yet acted on the provider's Order No. 2006 or Order No. 2006-A compliance filings. Midwest ISO filed an amendment to its Order No. 2006 compliance filing in Docket No. ER06-192-001.

### **III. The Filing**

5. On September 27, 2006, Midwest ISO filed the Interconnection Agreement. The Interconnection Agreement is among Midwest ISO, Cisco, and Great River, and involves the interconnection of four 2.0 megawatt wind turbines and related equipment (collectively, Small Generating Facility). Four limited liability companies each own one of the four wind turbines and its related equipment. The Small Generating Facility would interconnect the Transmission Owner's facilities near the West Lakefield Switching Station to the Round Lake Switching Station's 69 kV line in Jackson County, Minnesota.

6. Midwest ISO states that the Interconnection Agreement generally tracks its *pro forma* SGIA, with some non-conforming provisions, discussed below. The categories of non-conforming provisions included in the Interconnection Agreement are: (1) provisions necessary to reflect the unusual ownership structure of the small generating facility; and (2) provisions that Midwest ISO has proposed or intends to propose in future filings to revise its *pro forma* SGIA. The Interconnection Agreement is filed unexecuted because Cisco prefers to wait for the Commission's determination regarding insurance provisions before executing the Interconnection Agreement.

7. Midwest ISO requests waiver of the 60-day prior notice period to permit an effective date of September 28, 2006, one day after filing.

### **IV. Notice and Responsive Filings**

8. Notice of the filing was published in the *Federal Register*, 71 Fed. Reg. 59,100 (2006), with interventions and protests due on or before October 19, 2006. Great River and Cisco filed timely motions to intervene. Cisco's motion to intervene includes a Request for Expedited Consideration to facilitate closing of financing and site preparation. Cisco states that the Small Generating Facility has a construction schedule requiring site preparation before Minnesota's winter freeze.

## V. Discussion

### A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

### B. Analysis of Non-Conforming Provisions

#### 1. Revisions to Reflect the Ownership Structure

10. Midwest ISO states that the proposed SGIA includes non-conforming provisions necessary to reflect the unique ownership structure of the Small Generating Facility. Four limited liability companies (Christoffer Wind Energy, LLC, I, II, III and IV) each own one wind turbine and related equipment, instead of the interconnection customer owning all four wind turbines and related equipment. Certain revisions would delineate the relationship between the interconnection customer and the owner of each wind turbine.<sup>7</sup> Other revisions would require the interconnection customer to ensure that the Small Generating Facility is operated in accordance with the Interconnection Agreement.<sup>8</sup> Finally, Midwest ISO proposes to revise the Glossary of Terms to provide uniform use of terms throughout the Interconnection Agreement and clarify the obligations of the interconnection customer. For example, the definition of "Small Generating Facility" would include the production facilities (without ascribing ownership of the generation facilities to the interconnection customer).

11. The Commission has previously permitted similar deviations as a result of this type of ownership structure, including provisions that establish the relationship between the interconnection customer and the wind generation facilities, as well as requiring that

---

<sup>7</sup> Revisions to articles 1.2, 1.3, 1.8.2, 2.1.1, and 3.4.5 distinguish the Interconnection Customer from the Small Generating Facility.

<sup>8</sup> Revisions to articles 1.5.2, 1.5.4, 1.6, 1.8.1, and 2.2.2 require the Interconnection Customer to "cause" the action required in these provisions because the Interconnection Customer does not itself own or operate the wind turbines. For example, in article 1.5.2, Midwest ISO proposes to add the following underlined language: "The Interconnection Customer shall cause the Generating Companies to construct, interconnect, operate and maintain its Small Generating Facility . . . ."

the interconnection customer “cause” the action to be undertaken.<sup>9</sup> We will accept Midwest ISO’s proposed deviations subject to the outcome of Midwest ISO’s Order No. 2006 compliance filing in Docket No. ER06-192-000, as amended.

## 2. Revisions Proposed in Other Filings

12. The following proposed non-conforming provisions reflect some of the revisions to the *pro forma* SGIP and SGIA that Midwest ISO has already proposed or says it intends to propose in future filings.

### a. Crediting Provisions for Network Upgrades

13. Midwest ISO proposes to incorporate by reference the new cost allocation for Network Upgrades approved in the February 3 Order.<sup>10</sup>

14. On August 28, 2006, in Docket No. ER06-1418-000, Midwest ISO filed proposed revisions to its Attachment R *pro forma* SGIA to conform to the tariff revisions conditionally accepted for Attachment X (Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA)) of the TEMT in the February 3 Order. The proposed revisions primarily refer to Attachment FF (Transmission Expansion Planning Protocol) in Article 5.2.1 (Repayment of Amounts Advanced for Network Upgrades). Midwest ISO proposes to incorporate the same provisions here. In a Commission Letter Order issued October 26, 2006, in Docket No. ER06-1418-000, the Commission accepted the proposed revisions to Attachment R, subject to the outcome of Docket Nos. ER06-18-000 and ER06-192-000.<sup>11</sup> Therefore, we conditionally accept the same provisions here, subject to the outcome of Docket Nos. ER06-18-000 and ER06-192-000.

### b. Conditional Energy Resource Interconnection Service

15. ERIS and Network Resource Interconnection Service (NRIS) allow Interconnection Customers to use all available energy/network resource capacity until a higher queued project goes into service and uses the available capacity. The

---

<sup>9</sup> See *Midwest Independent Transmission System Operator Corp.*, 112 FERC ¶ 61,270 (2005).

<sup>10</sup> *Supra* n. 3.

<sup>11</sup> *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,115 (2006).

Commission has conditionally accepted Midwest ISO's changes to Attachment X to allow an interconnection customer with a Large Generating Facility to receive a higher level of interconnection service on a conditional basis until a higher queued project goes into service and uses the available capacity.<sup>12</sup>

16. On September 11, 2006, Midwest ISO submitted a filing in Docket No. ER06-1483-000 proposing to revise its *pro forma* SGIP in Attachment R of its TEMT to allow Interconnection Customers with Small Generating Facilities to have conditional ERIS. Midwest ISO did not include conditional NRIS in its *pro forma* tariff because both small and large generator interconnection requests for NRIS are processed pursuant to Midwest ISO's Attachment X *pro forma* LGIP.

17. Midwest ISO states that the Interconnection Customer in this case has requested conditional ERIS. Midwest ISO explains that the Small Generating Facility is located near the Buffalo Ridge region in Minnesota, a known transmission-constrained area. The Small Generating Facility has been identified as one of the projects responsible for the cost of a 110 MVAR capacitor bank. The capacitor bank will not be needed for at least five years, until a combination of higher queued interconnection projects is placed into commercial operation. The Small Generating Facility is expected to become operational in May 2007. Midwest ISO requests conditional ERIS because the Small Generating Facility will be operational before higher queued projects.

18. Midwest ISO's proposal to revise its *pro forma* SGIP to add language allowing conditional ERIS is pending before the Commission in Docket No. ER06-1483-000. Additionally, Midwest ISO's revisions to Attachment X of its *pro forma* LGIP were conditionally accepted in Docket No. ER06-1315-000, as explained above. We will, therefore, accept Midwest ISO's request for conditional ERIS herein, subject to the outcome of the proceedings in Docket Nos. ER06-1483-000 and ER06-1315-000.

**c. Revisions Reflecting Nature of a Three-Party Agreement**

19. The proposed SGIA includes non-conforming provisions to reflect the nature of a three-party agreement among the interconnection customer, Midwest ISO, and the transmission owner. The revisions clarify that more than two parties are involved in the agreement, *e.g.*, deleting "party" and replacing the term with "parties." Midwest ISO requests that the Commission accept these non-conforming provisions on the condition

---

<sup>12</sup> *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,306 (2006).

that its *pro forma* SGIA will be revised to reflect the three-party arrangement, since not all revisions necessary to reflect the nature of a three-party agreement were incorporated in the Attachment R *pro forma* SGIA.

20. These proposed SGIA provisions are consistent with the deviations from the Commission's *pro forma* SGIA reflected in Midwest ISO's Order No. 2006 compliance filing. Therefore, we accept the provisions, subject to the outcome of Docket No. ER06-192-000. In addition, if Midwest ISO's Order No. 2006-B compliance filing does not incorporate these changes into the *pro forma* SGIA, then our acceptance of this filing is also conditioned on Midwest ISO filing revisions to its *pro forma* SGIA that include these non-conforming provisions.

### **3. Revisions Related to Insurance**

21. In its transmittal letter, Midwest ISO presents several arguments that Cisco made in favor of revised insurance provisions that were rejected by Midwest ISO. In its transmittal letter, Midwest ISO provided an explanation as to why the revised insurance provisions were not appropriate. Because Cisco failed to address these arguments in a pleading or protest, as required by the Commission's Rules, 18 C.F.R. §§ 385.203, .211 (2006), we consider Midwest ISO's response to the proposed revisions to be uncontested. Thus, we do not address them here and we do not accept the revisions to the insurance provisions.

## **VI. Underlying Order No. 2006 Compliance Filing**

22. As noted previously, our acceptance of the Interconnection Agreement is based on the outcome of other proceedings. Insofar as the proposed Interconnection Agreement reflects revisions to Midwest ISO's *pro forma* SGIA that are subject to rehearing in Docket No. ER06-18, subject to compliance in Docket No. ER06-1315, or pending before the Commission in ER06-192, we direct Midwest ISO to file, within 30 days of the date of an order either approving or directing further revisions to the Attachment R *pro forma* SGIA in these proceedings, any necessary revisions to the Interconnection Agreement to conform to the revisions required by those orders.

23. We find that good cause exists to grant Midwest ISO's request for waiver of the 60-day prior notice requirement<sup>13</sup> to permit an effective date of September 28, 2006.

---

<sup>13</sup> 18 C.F.R. § 35.3 (2006), *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

The Commission orders:

(A) The Interconnection Agreement is hereby conditionally accepted for filing, as discussed above, effective September 28, 2006, subject to the outcome of the proceedings in Docket Nos. ER06-18-000, ER06-192-000, ER06-192-001, and ER06-1315-001.

(B) The request for waiver of the Commission's prior notice requirement is hereby granted, as discussed in the body of this order.

(C) Midwest ISO is hereby directed to make further compliance filings, as necessary, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.